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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,585	01/10/2002	Masayuki Nishimura	50395-129	5222
7590	10/27/2003			EXAMINER
McDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			MOONEY, MICHAEL P	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/041,585	NISHIMURA ET AL.	

Examiner
Michael P. Mooney

Art Unit
2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 8 is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) 7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naito et al. (ECOC'99).

Naito et al. teaches an optical fiber composite comprising: (a) a first optical fiber having a first chromatic dispersion, D.sub.1, at the wavelength of a signal-carrying lightwave; (b) a second optical fiber that: (b1) has a second chromatic dispersion, D.sub.2, at the wavelength of the signal-carrying lightwave, the second chromatic dispersion having the sign opposite to that of D.sub.1; and (b2) is spliced to one end of the first optical fiber; and although Naito et al. does not explicitly teach "(c) a third optical fiber (OF) that: (c1) has the same chromatic dispersion, D.sub.1, as the first optical fiber at the

wavelength of the signal-carrying lightwave", Naito does teach the 3rd OF (see, e.g., the amplifiers in figure 3) and it would have been obvious for Naito et al. to teach the 3rd OF has the same chromatic dispersion as 1st OF because it is NWK for such amplifier fiber to have the same chromatic dispersion as fibers such as the said 1st OF in such apparati;

furthermore, although Naito et al. does not explicitly teach "(c2) is shorter than the first optical fiber;" it would have been obvious to do so because it is NWK for such amplifier fiber to have a length shorter than an OF such as the 1st OF in such apparati;

and, finally, although Naito et al. does not make the exact statement, " (c3) is spliced to the free end of the second optical fiber" it would have been obvious to do so because it is NWK to splice such OF in such apparati in this way. (See Naito et al. fig. 3 plus text).

Thus claim 1 is rejected.

Each and every element of claim 2 is rejected because it is NWK for amplifiers to range from several to several hundred meters (use, e.g., 500 m) and, using the 16km and/or 32km figures taught in Kaito for D+ would yield a ratio well under 0.1. Even using the number 1600 meters instead of 500 m would only reach 0.1.

Thus claim 2 is rejected.

Based on the claim 2 reasoning given above claim 3 is also rejected.

By the reasons and references given above each and every element of claim 4 is rejected.

By the reasons and references given above each and every element of method claim 5 is rejected. If Applicant disagrees with this obviousness holding, then Applicant should submit evidence showing this obviousness holding is errant. Examiner will then consider restricting.

By the reasons and references given above each and every element of claim 6 is rejected with the additional point that it is NWK to fusion splice in these situations. Thus claim 6 is rejected.

Allowable Subject Matter

Claim 8 is allowed.

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Mooney whose telephone number is 703-308-6125. The examiner can normally be reached during weekdays, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 703-308-4881. The fax phone numbers

for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7721 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956. An alternative useful number for status inquiries is 703-306-3329.


Michael P. Mooney
Examiner
Art Unit 2877


Frank G. Font
Supervisory Patent Examiner
Art Unit 2877

FGF/mpm
10/20/03